

New Jersey Commissioner of Education

Final Decision

Neysa Etienne,

Petitioner,

v.

New Jersey State Board of Examiners,

Respondent.

Synopsis

Pro-se petitioner appealed the determination of the respondent New Jersey State Board of Examiners (SBE) that she had not met the requirements for issuance of a school social work endorsement. Specifically, the SBE determined that petitioner’s alternative experience fails to serve as a one-to-one equivalent of the required three semester hours in advanced social casework which petitioner needs to fully meet the requirements for issuance of a school social worker endorsement pursuant to *N.J.A.C. 6A:9B-14.5*. Petitioner asserted that her job experience does fulfill the regulatory requirements. The SBE contended that petitioner’s experience was piecemeal and did not include enough one-to-one experience specifically within a school setting to meet the required three semester hours in advanced level social casework.

The ALJ found, *inter alia*, that: the SBE determined that petitioner only lacks three semester hours of advanced social casework before she qualifies for the endorsement; petitioner’s work experience as a mobile crisis school liaison, prevention specialist, and as a licensed associate marriage and family therapist meets the requirement of the three semester hours in advanced social casework; petitioner is therefore entitled to the school social work endorsement that she seeks; and the SBE’s requirement that petitioner’s experience must be unsupervised and in a school setting exceeds the requirements of *N.J.A.C. 6A:9B-14.5*. The ALJ concluded that the petitioner achieved the one-to-one equivalent of the required three semester hours in advanced social casework through her previous work experiences and is therefore entitled to the educational services certificate and endorsement as a school social worker.

Upon review, the Commissioner found, *inter alia*, that petitioner does not meet the requirements for a school social worker endorsement as she has not met the requirements of *N.J.A.C. 6A:9B-14.5*; the SBE acted within its discretionary authority when it found that petitioner’s alternative experience fails to serve as a one-to-one equivalent of the advanced social casework requirement. Accordingly, the Initial Decision of the OAL was rejected and the petition was dismissed.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

306-21

OAL Dkt. No. EDU 01947-20

Agency Dkt. No. 312-12/19

New Jersey Commissioner of Education

Final Decision

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Petitioner,

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New Jersey State Board of Examiners,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the New Jersey State Board of Examiners (Board), and the petitioner's reply thereto.

In this matter, petitioner challenges the Board's November 5, 2020 denial of her application for a school social worker endorsement¹ based on its determination that her experience was not equivalent to the advance level social casework requirement.² In denying her application, the Board found that petitioner had "not accumulated enough one-to-one case experience specifically within a school setting that completion of Advanced Level Social Case work requires." (Exhibit R7).

¹ A school social worker endorsement accompanies an educational services certificate.

² In a decision dated September 24, 2019, the Board considered petitioner's alternate experience during a credentials review, pursuant to *N.J.A.C. 6A:9B-4.12*, and found that petitioner's experience satisfied the introductory level social casework requirement but failed to meet the advanced social casework or medical information requirements. Following the filing of the petition, the Board agreed to reconsider petitioner's application and review additional materials. In its November 5, 2020 decision, the Board determined that the medical information requirement had been satisfied, but that petitioner was still deficient in the advanced social casework requirement.

Thereafter, in an email from the Board's counsel dated November 19, 2020, the Board provided clarification as to its decision:

Essentially, the Board is looking for candidates whose experience with children is equivalent to what would be learned in an advanced Masters in Social Work course, i.e., the candidate would have the skills and knowledge to independently work on a child's case from start to finish. The candidate would need [to] show experience in which she had direct contact with children relating to topics that would generally be covered in [a] social work masters class, of which substance abuse is only one. Such experience would entail the following:

- Determining proper interview methods for child;
- Talking directly to child and learning about their life;
- Figuring out and diagnosing what the child's issues are;
- Reviewing with the child what those issues are;
- Writing down what the case study was for the child;
- Counseling them directly on how to correct those issues; and
- Being the main person doing this and not under the supervision of someone else.

The Board found that [petitioner's] experience in the above listed factors was piecemeal and too often with the support of other people, and therefore did not grant her the credits for advanced social work.

[(Exhibit P3).]

Following a hearing on the merits, which included the testimony of petitioner, petitioner's former coworker, and the Director of the Office of Certification and Induction, the Administrative Law Judge (ALJ) found that petitioner's work experiences – specifically as a mobile crisis school liaison, prevention specialist, and as a licensed associate marriage and family therapist – met the requirement of three semester hours of advanced social casework, and she is therefore entitled to the educational services certificate and endorsement as a school social worker. The ALJ also found that the Board's requirement that her experience be unsupervised and in a school setting exceeded the requirements of *N.J.A.C. 6A:9B-14.5*.

In its exceptions, the Board argues that it acted within its discretionary authority when it determined that petitioner's alternative experiences "did not demonstrate a one-to-one equivalence of the independent casework diagnosis and interview skills attained by graduate level students in a [master's in social work (MSW)] program by completing advanced level social casework credits, which the school social worker certificate requires." (Board's exceptions at 18). The Board also maintains that it is within its discretionary authority to determine what type of experience constitutes a one-to-one equivalence, so the ALJ erred in finding that the Board could not require unsupervised experience that takes place in a school setting.

The Board takes exception to the ALJ's conclusion that petitioner's work experience qualified as school setting experience and that she therefore meets the requirements for certification. Specifically, the Board contends that the issues petitioner faced in her work were not those typically addressed in a school setting. The Board points out that petitioner admitted in her testimony that her mobile crisis response liaison experience was not long-term counseling and the services she provided as a prevention specialist were primarily done in group settings rather than individual counseling. As such, the Board argues that the Commissioner should reject the Initial Decision because petitioner did not meet the requirements for an endorsement as a school social worker.

In reply, petitioner argues that her experience was only supervised to the extent that she was obtaining a clinical license – which is not a requirement for the social worker endorsement – and that she was not being supervised with respect to the provision of social services. Petitioner also maintains that she worked in school settings and counseled students on school-related issues and completed assessments and diagnoses, provided referrals, and worked with parents and school staff. As such, petitioner agrees with the ALJ that her work experiences met the requirements for

certification and the Board erred by denying her application for a school social worker endorsement.

Upon review, the Commissioner finds that petitioner does not meet the requirements for a school social worker endorsement. *N.J.A.C. 6A:9B-14.5(b)* provides:

To be eligible for the standard educational services certificate with a school social worker endorsement, the candidate shall hold a master's degree from a regionally accredited college or university and complete a total of 30 graduate-level semester-hour credits with a study in each area listed below:

1. Psychology, including general psychology, educational psychology, psychology of adolescence, and child growth and development;
2. Special education and/or learning disabilities;
3. Social problems, including study in dealing with delinquency, poverty, interracial, and intercultural problems;
4. A minimum of six semester-hour credits in introductory and advanced social casework, including principles and practices in social casework, interviewing, and methods and skills in diagnosis;
5. Mental hygiene and social psychiatry, including dynamics of human behavior and psychopathology;
6. Medical information, including the role of the social worker in health problems or fundamentals of substance abuse and dependency;
7. Community organizations, agencies and resources; and
8. Social policy and public welfare services, including the care and protection of at-risk children and families.

If a candidate is deficient in certain areas of an application, he or she may provide the Board with “evidence of alternative education and/or experience that he or she believes is equivalent to the area(s) of deficiency.” *N.J.A.C. 6A:9B-4.12(b)*. Thereafter, when considering evidence of alternative education, the Board may not “[p]ermit a candidate to substitute education and/or experience for any test, GPA, degree, or approved educator preparation program completion requirements.” *N.J.A.C. 6A:9B-4.12(c)*. Accordingly, a candidate may satisfy regulatory requirements by using alternative experience “if the petitioner demonstrates, by a preponderance of the credible evidence, that the alternative education is the one-to-one equivalent with the statutory

requirements.” *Jenny Neuhoff v. New Jersey State Board of Examiners*, EDU 11780-17, Initial Decision (March 6, 2018), adopted, Commissioner Decision No. 118-18, decided April 13, 2018.

Here, the Board considered the petitioner’s alternative experience and properly found that she lacked the equivalent of three semester hours in advanced social casework, as required by *N.J.A.C. 6A:9B-14.5(b)(4)*. Rani Singh (Singh), Director of the Office of Certification and Induction and Secretary of the Board, explained in her testimony that, in contrast to the introductory level requirement, “the advanced level requires more one on one interactions between the social worker and students in a school-like setting in which the social case worker is the main person providing the services without the need of a supervisor so they’re basically on their own in this type of setting.” (Testimony of Rani Singh, T2 at 16, April 23, 2021). Singh also testified that the Board is looking for a specific set of skills to handle the wide range of issues that a school social worker deals with in the school setting, from making overall diagnoses to treatment for emotional and social issues and substance abuse problems, to counseling regarding academics and college plans. (*Id.* at 59). The Commissioner disagrees with the ALJ that the Board exceeded its authority in requiring that petitioner’s alternative experience be unsupervised and in a school setting to be considered the equivalent of the advanced social casework requirement because such a determination as to what constitutes a one-to-one equivalent is a discretionary one.

Considering petitioner’s alternative experience, the Board was not unreasonable in determining that such experience did not qualify as an equivalent of the advanced social casework requirement. First, from November 2017 to the present, petitioner has worked at Clara Maas Medical Center as a mental health screener and child specialist. As a mental health screener, petitioner assesses patients who arrive in the emergency room. She also works as a mobile crisis liaison for schools, going to schools when there is a crisis and assessing the child to determine

whether there is a need for hospitalization, in consultation with a psychiatrist. (Exhibit P-5). The Commissioner agrees with the Board that even though petitioner may physically enter schools, the position involves emergency or crisis situations which differ from the issues that are ordinarily addressed in the school environment. Additionally, such evaluations are short term, rather than the long-term counseling that school social workers provide.

Second, petitioner has worked at Wayne Counseling and Family Services (WCAFS) in several roles, starting with a clinical internship in 2014. Petitioner then served as a part time bilingual clinician from December 2015 through May 2015. In January 2019, petitioner returned to WCAFS as an intern working toward full licensure as an associate marriage and family therapist, which she obtained in 2020. In this job, petitioner conducts intake interviews and develops and implements treatment plans focusing on a variety of concerns, including marital/family issues, emotion management, mood disorders, parenting, anxiety, depression, grief, PTSD and personality disorders. (Exhibit P-8). While this position involves counseling over longer periods of time, the Commissioner agrees with the Board that it does not involve a school setting. Petitioner counsels both children and adults, including issues such as marital counseling and parenting issues that are not specific to do not pertain to children, and her position is supervised.

Finally, from April 2016 to September 2017, petitioner worked as a prevention specialist with RWJ Barnabas Health's Institute for Prevention. In that role, petitioner provided lessons on prevention in classrooms and small groups to minimize substance abuse by teaching proper coping skills, anger management, and decision making. (Testimony of Neysa Etienne, T1 at 34, 98-99, February 23, 2021). The Commissioner agrees with the Board that, although petitioner worked with students in school, the position did not involve interviewing, diagnosing and counseling of individuals. Petitioner worked in group settings to teach prevention, rather than counseling

students as a school social worker would. Accordingly, the Commissioner finds that petitioner's alternative experience fails to serve as a one-to-one equivalent of the required three semester hours in advanced social casework, such that petitioner does not fully meet the requirements for a school social worker endorsement pursuant to *N.J.A.C. 6A:9B-14.5*.

Accordingly, the Initial Decision of the OAL is rejected for the reasons expressed herein. The petition is hereby dismissed.

IT IS SO ORDERED.³


ANGELINA ALLEN McMILLAN, J.D.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: December 2, 2021

Date of Mailing: December 3, 2021

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. EDU 01947-2020

AGENCY DKT. NO. 312-12/19

NEYSA ETIENNE,

Petitioner,

v.

**NEW JERSEY STATE BOARD OF
EXAMINERS,**

Respondent.

Neysa Etienne, pro se

David Kalisky, Deputy Attorney General, for State Board of

Examiners (Andrew J. Bruck, Attorney General of New Jersey, attorney)

Record Closed: August 13, 2021

Decided: September 7, 2021

BEFORE **NANCI G. STOKES**, ALJ:

STATEMENT OF THE CASE

Petitioner Neysa Etienne applied for a School Social Worker endorsement presenting evidence of her education and work experience.¹ The State Board of

¹ The regulation uses “endorsement” but the Board’s decision and materials often use “certificate” instead. A school social worker endorsement accompanies an educational services certificate.

Examiners (Board) determined that Etienne's experience was not equivalent to advanced level social casework, imposing requirements outside the regulation. Is Etienne entitled to the endorsement? Yes. If the Board's denial is not supported by the evidence or is arbitrary, capricious, or contrary to the law, the Commissioner may reject the Board's determination. N.J.A.C. 6A:4-4.1 N.J.A.C. 6A:9B-14.5(b)(6); N.J.A.C. 6A:9B-4.12(b).

PROCEDURAL HISTORY

On September 24, 2019, the Board denied Etienne's application for a School Social Worker certificate.

On November 26, 2019, Etienne appealed.

On February 3, 2020, the Board moved to dismiss and requested that I convert the motion to a motion for summary decision if the case was transmitted to the Office of Administrative Law.

On February 7, 2020, the Department of Education, Office of Controversies and Disputes, transmitted the case to the OAL as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On February 24, 2020, Etienne filed her opposition to the motion, and on March 12, 2020, the Board submitted its reply.

On April 24, 2020, I denied the Board's motion concluding that genuine factual issues existed.

The Board agreed to reconsider and review additional materials regarding Etienne's certification application.

On November 5, 2020, the Board accepted that Etienne's experience met the required medical-information coursework component, but still denied Etienne's application for school social worker.

I adjourned scheduled hearings due to witness illness and unavailability. On February 23, 2021, and April 23, 2021, I conducted hearings via Zoom because of continued COVID-19 restrictions precluding in-person proceedings. The Board requested transcripts, and the parties agreed to supply post-hearing submissions.

On May 28, 2021, Etienne submitted her post-hearing arguments.

On August 13, 2021, the Board filed its submission, and I closed the record.

FINDINGS OF FACT

The parties do not dispute many of the background facts in this case. I **FIND** the following **FACTS**:

On September 9, 2014, Etienne first requested a school social worker certification. This application included her Kean University transcripts indicating a Bachelor of Arts degree with a major of psychology, a Master of Arts in behavioral sciences and psychological services, and a professional diploma in marriage and family therapy.

On November 15, 2015, the Board denied her request noting deficiencies that included "a minimum of 6 semester-hour credits of introductory and advanced level social work" and the "medical information" component.

On February 25, 2016, in response to Etienne's request for reconsideration, the Board advised Etienne that she could use experience to demonstrate "one-to-one equivalence of your experience/coursework to the licensure deficiency." In particular, the Board instructed Etienne to address each deficiency area:

Documentation of experience should include not only original letters by appropriate employers and those responsible for providing alternative study indicating dates of employment and job responsibilities, but should also include information relevant to the specific areas of deficiency. The material you submit for review must include the completed summary sheet and notarized statement that all documentation is true and accurate. It is recommended that in addition to documentation of employment and academic study, you include in your packet a narrative statement in which you clearly outline the one-to-one equivalency of your experience/coursework to the licensure deficiency.

[Id.]

The Board initially denied Etienne's 2019 application because she did not have experience equivalent "for the advanced social case work or the medical information requirement. Specifically, the experience offered does not contain substance abuse/awareness content which is a content area that is covered by advanced level casework." However, Etienne now satisfied the three-hour semester credits for introductory social case work.

Etienne's appeal addressed her substance abuse experience noting she worked extensively "with patients that have intentionally or unintentionally overdosed on various drugs." Further, she served as a "school-based prevention specialist" through Robert Wood Johnson's Barnabas Behavioral Health Center (BHC) focusing on substance abuse prevention. Since November 2017, Etienne has worked as a mental health screener at RWJ Barnabas Clara Maas (Clara Maas) in the psychiatric emergency screening unit that provides, in part, assessment of substance abuse.

Etienne's application also noted that she was a certified trainer in Screening, Brief Intervention, and Referral to Treatment (SBIRT) through the Rutgers Center for Alcohol Studies. Further, Etienne attended multiple professional workshops related to substance abuse.

Lastly, Etienne is a licensed associate marriage and family therapist (LAMFT) working part-time at an out-patient family and marriage therapist at Wayne Counseling and Family Services (WCFS).

The Board agreed to reconsider Etienne's application materials and allow additional documentation addressing the deficiencies raised in the initial decision.

Before the Board's July 30, 2020, meeting, Etienne supplied supplemental records used in her jobs and explained why she believed her experience was equivalent to all regulatory requirements. Documentation included: the psychiatric screening form with Columbia suicide severity rating scale (CSSRS) completed by Etienne independently at Clara Maas; a 2015 letter from WCFS; small group attendance form and lesson plan supporting ongoing weekly sessions; and New Jersey Early Intervention System log evidencing weekly in-home therapeutic services to a child.

On November 5, 2020, the Board issued a subsequent decision concluding that Etienne's experience satisfied the medical information component of the regulation but still did not meet the advanced level social case work element. The Board explained that Etienne "has not accumulated enough one-to-one experience specifically within a school setting that completion of advanced level social case work requires."

On behalf of the Board, counsel provided additional clarification, and framed the issue in this case:

Essentially, the Board is looking for candidates whose experience with children is equivalent to what would be learned in an advanced Masters in Social Work course, i.e., the candidate would have the skills and knowledge to independently work on a child's case from start to finish. The candidate would need [to] show experience in which she had direct contact with children relating to topics that would generally be covered in a social work master's class, of which substance abuse is only one. Such experience would entail the following:

- Determining proper interview methods for child;
- Talking directly to child and learning about their life;
- Figuring out and diagnosing what the child's issues are;
- Reviewing with the child what those issues are;
- Writing down what the case study was for the child;
- Counseling them directly on how to correct those issues; and

- Being the main person doing this and not under the supervision of someone else.

The Board found that Ms. [Etienne's] experience in the above listed factors was piecemeal and too often with the support of other people, and therefore did not grant her the credits for advanced social casework.

Petitioner's Case

Nyesa Etienne

Etienne testified that she initially focused her appeal on her extensive training in substance abuse and awareness as the Board's decision, in her opinion, focused only on the lack of this content area within the advanced level social casework requirement. She considers the Board's subsequent November 2020 decision a change in the alleged insufficiency. Etienne maintains that she assessed and worked with clients and children independently rather than primarily supervised, diagnosed children, and worked with children "long-term."

In 2014, Etienne completed a 500-hour clinical internship at WCFS, working with children, adults, and families. After receiving her professional diploma in marriage and family therapy, Etienne held a part-time clinical position from December 2014 until May 2015. In January 2019, Etienne returned as an LAMFT under supervision until she obtains her full licensure. Etienne provides ongoing counseling for marital and family issues, emotion management, mood disorders, parenting, anxiety, depression, grief, PTSD, and personality disorders. Etienne is assigned a caseload with a variety of consumer populations. WCFS's executive director's May 2019 letter, supplied with her application, explains Etienne's responsibilities to include:

- Complete biopsychosocial intakes while utilizing therapeutic interviewing skills
- Develop and implement individualized treatment plans with clients
- Utilize her expertise for DS and diagnosis and treatment services
- Direct weekly therapeutic sessions for assigned caseload
- Provide crisis intervention and advocacy services via providing information and referrals

- Outreach and coordination with other social service agencies
- Progress notes and other reports as needed
- Discharge planning
- Principals (sic) practiced include ethical concepts such as confidentiality and disclosing requirements

From April 2016 until September 2017, Etienne worked as a prevention specialist through BHC's Institute for Prevention and Recovery, running ongoing programs for Essex County schools. She provided classroom and small group instruction using recognized substance abuse prevention and family strengthening programs in this role. This involved courses to students, small groups, parents, and school staff members focusing on intervention and referral services in the school and community. The twenty-four session program to students provided lessons on decision-making, empathy, emotion management, problem-solving, assertiveness, and refusal skills. Etienne's identified discussion topics promoted school success, school correctness, and promoting a safe, respectful school environment while addressing problem behaviors, peer rejection, impulsivity, anti-social behavior, and low academic achievement. Etienne also ran a seven-week parent training program to identify and address problematic youth behaviors and improve family functioning. Etienne developed and ran these programs independently.

At the time of her application, she possessed a temporary mental health screener certification following training at Rutgers University Behavioral Healthcare Center (Rutgers). Her training through Rutgers involved education, a competency assessment in the field, and an exam that she passed. Etienne became a fully licensed screener after passing the exam in May 2019.

Etienne performs clinical assessment, patient interviews, diagnoses, counseling, service delivery coordinating, and recommends appropriate disposition as a screener. The New Jersey screening form requires documentation in multiple areas of concern, including family, mental health and medical history, substance abuse, and education. In addition, Etienne completes a CSSRS to address any suicidal behavior. As Etienne performs mental health screening in a medical setting, medical professionals also perform medical evaluations. Before receiving the full screener certification, she would complete all tasks but could not sign off on the legal form to recommend admission or discharge of a patient. Yet, she would perform all assessment responsibilities independently and make the

recommendation. The order to admit or discharge a patient is a medical task that the psychiatrist can only perform. Still, the psychiatrist does not revise or change the clinician assessment or recommendation, even if they disagree with the recommended admission or discharge. Further, the psychiatrist would not dictate interviewing methods or what information to include in the assessment report.

Etienne also acts as the Essex County liaison for mobile crisis response to schools and their students in this position. Etienne testified that she serves in that role three times a week and physically goes to the school. COVID-19 made such in-person meetings less, but still acts as the child specialist and is the person assigned to addressing school-based referrals. Etienne testified that she performs this task at the request of the school social worker, administrator, or guidance counselor that has identified a child in crisis. Etienne also involves family members in the interview process and requires family consent to evaluate the child. The school staff or family members would provide collateral information such as the attendance record or mental health history. Legally, schools may require another person in the room during her interview process, but they serve only as observers or provide collateral information. Like the hospital setting, a psychiatrist would still need to order admission to the hospital as this is a medical decision. Thus, Etienne would report her findings to the psychiatrist to accomplish such an admission. Etienne acknowledges that in an emergency setting, many of her patient interactions would be short-term.

Etienne believes the Board misunderstands supervision in the context of her positions and suggests focusing on “supervision” is not appropriate in denying the endorsement. She notes that an MSW may serve as a school social worker. Yet, Etienne asserts that the holder of a master’s degree in Social Work (MSW) or licensed social worker (LSW) cannot provide clinical therapeutic services without supervision. Etienne possesses a license as an associate marriage and family therapist (LAMFT) similar to that of a licensed social worker (LSW). Etienne still works under a supervisor when providing clinical therapy services, as would an LSW.

Jackelin Alerte

Since 2015 Alerte has worked as a full-time school social worker and is a Licensed Clinical Social Worker. Alerte is also a certified mental health screener since 2010 and works

at Clara Maas as the supervisor of the psychiatric emergency room, where she worked with Etienne since 2018. Alerte also performs outpatient counseling in addition to hospital-based mental health screening.

Alerte explained what a school social worker does, and the credentials needed to become a licensed social worker. In New Jersey, an LSW works under the supervision of an LCSW. However, a school social worker is not required to be either an LSW or LCSW. Thus, a school social worker may possess an MSW, and may even be an LSW, but both holders would be under supervision of an LCSW. Alerte currently supervises a school social worker that is not fully licensed. Regardless, a MSW cannot provide clinical social worker services without an LSW or LCSW designation. Clinical social worker services include assessing, diagnosing, treating, and preventing mental illness, emotional, and other behavioral problems. Individual, group, and family therapy are common treatment modalities. Alerte explained that introductory social casework is more theoretical, while advanced casework involves practice with children and families and potential for substance use and abuse specialization.

Through working with Etienne, Alerte observed many of the skills the Board asserts Etienne lacks. Alerte's supervisory role is not of the clinicians such as Etienne but of the unit itself. Alerte testified that Etienne has extensive experience determining the appropriate interview methods, speaking, interacting with children and their families, preparing case studies, diagnosing issues, and developing counseling plans.

A screener would also contact a child's school as part of their assessment. Although the emergency room psychiatric unit sees both adults and children, Etienne handles most child cases given her experience. While most cases are short-term, some patients have ongoing issues, and the screening unit sees them regularly.

Moreover, while Alerte did not directly observe Etienne in her outpatient therapist role, certain aspects of that position are routine. They would be part of any outpatient therapist's job, including long-term therapy services. Alerte also confirmed that Etienne's duties described by the WCFS director are like her outpatient therapist responsibilities. As an LAMFT, Etienne's coursework and experience are similar to that of Alerte. Further, family involvement is critical in providing social work services in school.

Alerte highlights that crisis intervention is a growing aspect of a school social worker's job. Alerte helped her school district hire school social workers and believes that Etienne's crisis response training and knowledge would be an asset to any school. Alerte believes that Etienne far exceeds the requirements of a school social worker.

Respondent's Case

Rani Singh

Singh currently serves as the Director of the Office of Certification and Induction (OCI) and the Board Secretary. Previously, Singh was the chief OCI examiner beginning in 2005.

Singh oversees the certification, induction, and mentoring of all educator candidates. As the Board Secretary, she also manages the Board's appeal and legal section. As to the school social worker certificate, Singh highlighted that "applicants must meet our regulations, our state regulations for certification for school social worker and all other certificate areas."

Singh was familiar with Etienne's numerous applications and explained that a social worker position is not the equivalent of a school social worker position. Moreover, unlike the introductory social casework requirement, "the advanced level [casework] requires more one-on-one interactions between the social worker and students in a school-like setting in which the social case worker is the main person providing the services [on their own] without the need of a supervisor."

Singh explained that Etienne's submitted work experience with children failed to show a one-to-one correspondence to experience that completion of the three graduate-level semester-hour credits in advanced-level social casework requires. Etienne's work experience in hospitals and counseling centers cannot be considered experience the Board finds equivalent to the advanced social casework requirement because the experience is "not in a school setting." Singh testified that the Board regarded such experience as essential "because a majority of the [school social worker's] experience

deals with [the] same children on a long term basis.” Indeed, school social workers counsel children on typical issues arising in school. including “making case studies with them, long term case studies . . . [ranging from] mental health stress, to going to high school, college, drug, substance abuse, all of those issues that kids face in a [preschool through grade twelve] setting.”

Singh acknowledges that she lacks knowledge about the day-to-day responsibilities of a school social worker and has no background or experience in either the mental health or social work fields.

ADDITIONAL FINDINGS OF FACT

Having had the opportunity to observe the witnesses’ testimony and demeanor, together with the documentary evidence, and my assessment of their sufficiency, I **FIND**, by the preponderance of credible evidence, the following additional **FACTS**:

Etienne provides long-term counseling services to children, adults, and families at WCFS, under supervision because she is an LAMFT. Yet, an MSW employed as a school social worker would also need such supervision. In this regard, Etienne’s LAMFT is more akin to an LSW. Indeed, an MSW that applies for and obtains a LSW can provide clinical social work services under supervision as Etienne provides clinical therapeutic services to families with a LAMFT under supervision.

Moreover, Etienne’s out-patient therapist duties include interviewing and diagnosing a diverse client population that includes children, developing, and implementing a treatment plan, and preparation of notes and reports. Indeed, this job entails a multitude of topics and issues outside of substance abuse, including family difficulties and emotional problems.

Further, Etienne worked with Essex county to provide in-school instructional and counseling sessions to students and small groups, parent training, and staff development. While the twenty-four week program focused on substance abuse prevention, Etienne

assessed students and covered many social and emotional skills attempting to create an improved home and school environment.

Etienne worked independently in performing tasks as a mental health screener. Specifically, Etienne completes a clinical assessment, interviews, and diagnoses patients, provides counseling, and recommends appropriate disposition. While Etienne makes the admission or discharge recommendation, she could not sign a form presented to the psychiatrist for admission until receiving her full screener certification. Although a physician makes a medical determination as to admission, her assessment remains, and the psychiatrist is not involved in the way Etienne performs her assessment.

Moreover, Etienne acts as the mobile response liaison to schools for the emergency room psychiatric unit at Clara Maas. This role places her in a school setting with children in crisis and any involvement of school personnel does not detract from the independence of the student evaluation she conducts.

In issuing a school social worker endorsement based on alternate experience, the Board essentially certifies that the applicant completed the approved program of study by gaining the core skills required by the regulation.

DISCUSSION AND CONCLUSIONS OF LAW

Here, Etienne “carries the burden of demonstrating by a preponderance of the credible evidence that she is entitled to the endorsement she seeks.” McQuilken v. N.J. St. Bd. of Exam’rs, OAL Dkt. No. EDU 8374-11, Initial Decision (Dec. 13, 2011), adopted Comm’r (January 27, 2012). <http://njlaw.rutgers.edu/collections/oal/search.html>.

In evaluating determinations by the Board of Examiners, “the Commissioner . . . shall not disturb the decision if the “decision is supported by sufficient credible evidence in the record” unless the appellant has demonstrated that the Board . . . acted in a manner that was arbitrary, capricious or contrary to law.” N.J.A.C. 6A:4-4.1 The Department of

Education intended the standard of review for Commissioner determinations under Chapter Six to be “appellate in nature.” 40 N.J.R. 4606(a).²

The arbitrary, capricious, or unreasonable standard consists of three inquiries:

(1) whether the agency action violates the enabling act's express or implied legislative policies; (2) whether there is substantial evidence in the record to support the findings upon which the agency based application of legislative policies; and (3) whether, in applying the legislative policies to the facts, the agency clearly erred by reaching a conclusion that could not reasonably have been made upon a showing of the relevant factors.

[Public Serv. Elec. and Gas Co. v. New Jersey Dep't. of Env'tl. Protect., 101 N.J. 95, 103 (1985).]

However, where there is room for two opinions the action is not arbitrary or capricious when exercised honestly and upon due consideration even though court may believe that an erroneous conclusion has been reached.” Bayshore Sewerage Co. v. Department of Environmental Protection, 122 N.J. Super. 184, 199 (App. Div. 1973) (Internal citations omitted). Significantly, a “court should not substitute its judgment for that of an administrative or legislative body if there is substantial evidence to support the ruling.” Ibid.

All teaching staff members in the state’s public schools must hold a valid certificate before serving in any role in which they “teach, administer, direct or supervise the teaching, instruction, or educational guidance” of students. N.J.S.A. 18A:26-2. Under N.J.S.A. 18A:6-38 and N.J.S.A. 18A:26-2.7, the Board promulgated regulations for the required certification of persons employed in a public school district. Under those regulations, the Board issues three categories of educational certificates: instructional, administrative, and educational services. N.J.A.C. 6A:9-5.2(a). Endorsements for an educational services certificate include staff members such as a school psychologist or a school social worker. See N.J.A.C. 6A:9B-14.5, -14.9. These endorsements “coincide with the educational subjects or positions that share common attributes and thus are grouped under a particular certificate.” Dennery v. Bd. of Educ., 131 N.J. 626, 633 (1993).

² In 2016, the Department of Education re-adopted the standard of review and amended N.J.A.C. 6A:4-4.1 to include the same standard of review for decisions by the School Ethics Commission. 48 N.J.R. 2782(a).

Accordingly, a person can work in the particular field based upon the endorsement(s) enumerated on the certificate.

Under N.J.A.C. 6A:9B-14.5(a), the school social worker endorsement allows the holder to act a school social worker within New Jersey in preschool through grade twelve. N.J.A.C. 6A:9B-14.5(c) advises that persons holding “a master's degree in social work from a regionally accredited college or university will be issued a standard educational services certificate with a school social worker endorsement.” Notably, experience in a “school setting” is not required of an MSW before issuing a school social worker endorsement.

This significantly contrasts with other school staff member endorsements. For example, the Board will issue a school psychologist certificate to holders of a currently valid Nationally Certified School Psychologist³ (NCSP) license under N.J.A.C. 6A:9B-14.9(e). Even alternate route master’s degree applicants, must complete an externship of 1,200 hours, consisting of a “minimum of 600 clock hours . . . completed in a school setting with school-age children.” N.J.A.C. 6A:9B-14.9(b)3. Moreover, the Board can issue a school psychologist certificate to the holder of a master’s degree in clinical psychology [who] “presents official documentation of 600 clock hours of experience as a psychologist working with children in a clinical setting [and meets] the school psychology externship and practicum requirements by completing a 900-clock-hour school psychology externship in a New Jersey school, with school-age children, under [an] emergency certificate.” N.J.A.C. 6A:9B-14.9(b)4.

Relevant to Etienne’s application, N.J.A.C. 6A:9B-14.5(b) provides that other master’s degree holders like Etienne can obtain the school social worker endorsement after completion of thirty graduate-level semester-hour credits with study in the following areas:

1. Psychology, including general psychology, educational psychology, psychology of adolescence, and child growth and development;

³ Requiring successful completion of a 1,200-hour internship in school psychology, of which at least 600 hours must be in a school setting.

2. Special education and/or learning disabilities;
3. Social problems, including study in dealing with delinquency, poverty, interracial, and intercultural problems;
4. A minimum of six semester-hour credits in introductory and advanced social casework, including principles and practices in social casework, interviewing, and methods and skills in diagnosis;
5. Mental hygiene and social psychiatry, including dynamics of human behavior and psychopathology;
6. Medical information, including the role of the social worker in health problems or fundamentals of substance abuse and dependency;
7. Community organizations, agencies, and resources; and
8. Social policy and public welfare services, including the care and protection of at-risk children and families.

[bid.]

The Board determined that Etienne only lacks three semester hours of advanced social casework. Under N.J.A.C. 6A:9B-4.12(b), if an applicant is deficient on certification requirements, they may present “evidence of alternative education and/or experience that he or she believes is equivalent to the area(s) of deficiency.” However, the Board cannot waive or permit substitute experience for any test, GPA, degree completion, or approved educator preparation program completion requirement. N.J.A.C. 6A:9B-4.12 (c).

While the Board cannot waive the requirements, it can consider alternative education or experience if Etienne demonstrates, by a preponderance of the credible evidence, that the alternative education or experience is the one-to-one equivalent with the statutory requirements. Hutchinson v. New Jersey State Board of Examiners, EDU16373-12, Initial Decision (April 5, 2013), aff’d, Commissioner (May 15, 2013).

The Board of Social Worker Examiners addresses licensing and defines tasks permitted under social work certifications and licenses. "Clinical social work" means the professional application of social work methods and values in the assessment and psychotherapeutic counseling of individuals, families, or psychotherapy groups. N.J.A.C. 13:44G-1.2. Clinical assessment considers accepted diagnostic classifications. Id. Psychotherapeutic counseling is “an ongoing interaction between a social worker and an individual, family, or psychotherapy group for the purpose of helping to resolve symptoms

of mental disorder, psychosocial stress, relationship problems, or difficulties in coping with the social environment.” Id. "Clinical social work services" can be performed only by an LCSW or an LSW under supervision [of an LCSW] under N.J.A.C. 13:44G-8. Id. (Emphasis added). In other words, without being an LCSW, an MSW cannot provide clinical social work services unless supervised.

The Board’s November 5, 2020, decision requires experience within a school setting. Yet, unlike other endorsements, the regulation does not require experience in a school setting for the endorsement. Indeed, an MSW may have a degree and fieldwork but not necessarily within a school setting and can still qualify for the endorsement. Still, I found that Etienne has school setting experience as the mobile crisis school liaison in her mental screener position and as a prevention specialist completing a program with students and families addressing school-related, inter-personal, and substance abuse issues.

Further, Etienne’s clinical work as a LAMFT involves long-term services to children, and she employs the skills expected by the Board. Specifically, I found that Etienne interviews, diagnoses, counsels, develops a case study or treatment plan, and prepares progress notes and reports.

Moreover, a MSW would require supervision to provide any clinical social work services. The one-to-one equivalence is directed to the three semester hours of advanced social work. A graduate student in an MSW program is just that; a student performing “advanced social casework” in a supervised educational program obtaining a grade or satisfactory completion. The Board is not required to issue a school social work endorsement only to a LCSW authorized to provide clinical social work services without supervision.

Therefore, I **CONCLUDE** that the Board’s imposition of school setting prerequisites, even if preferred, is not within the regulation and beyond the regulation’s requirements. I similarly **CONCLUDE** that the Board’s insistence that Etienne have unsupervised job experience to have one-to-one equivalence to a supervised educational program exceeds the regulation’s requirements. Moreover, given my findings of fact and

this discussion, I **CONCLUDE** that a preponderance of the evidence exists that Etienne achieved one-to-one equivalence to the three semester hours of advanced social casework through her previous work experiences. Thus, I **CONCLUDE** that the Board's decision is insufficiently supported, and Etienne is entitled to the educational services certificate and endorsement as a school social worker.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the Board of Examiner's denial be and is hereby **REVERSED**, and that Etienne be given an educational certification with a school social worker endorsement.

This order may be reviewed by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** upon interlocutory review under N.J.A.C. 1:1-14.10 or at the end of the contested case under N.J.A.C. 1:1-18.6.



DATE

NANCI G. STOKES, ALJ

Date Received at Agency:

September 7, 2021

Date Mailed to Parties:

September 7, 2021

Lb

APPENDIX

Witnesses

For Petitioner:

Neysa Etienne

Jackelin Alerte

For Respondent:

Rani Singh

Exhibits

Joint:

J-1 State Board of Examiner's decision dated September 24, 2019

For Petitioner:

P-1 (J-1)

P-2 Petition of Appeal

P-3 Board Counsel's email

P-4 Petitioner's resume

P-5 RWJ Clara Maas Psychiatric Emergent Unit employer letter and job description

P-6 New Jersey Mental Health Screener Certification

P-7 Clara Maas assessment form and safety plan (see also R4)

P-8 Wayne Counseling and Family Services employer letter and job description

P-9 Wayne Counseling and Family Services progress note forms

- P-10 RWJ, Barnabas Behavioral Health, Institute for Prevention employer letter and job description
- P-11 School Social Worker endorsement 3200
- P-12 not in evidence
- P-13 Associate License in Marriage and Family Therapy
- P-14 Jackelin Santiago Alerte's letter of support

For Respondent

- R-1 Certification Application dated September 9, 2014
- R-2 Department of Education, Office of Licensing and Credentials' letter regarding Board's denial decision dated November 5, 2015
- R-3 Department of Education, Office of Licensing and Credentials' letter dated February 25, 2016
- R-4 Petitioner's documents in support of application review dated May 11, 2019
- R-5 (J-1)
- R-6 Petitioner's letter and supplemental documentation
- R-7 State Board of Examiner's decision dated November 5, 2020
- R-8 Petitioner's letter dated November 20, 2020, enclosing her Mental Health Screener Certification